

VZCZCXRO3357
PP RUEHDE RUEHDH RUEHDIR
DE RUEHKU #0431 1201338
ZNY CCCCC ZZH
P 301338Z APR 09
FM AMEMBASSY KUWAIT
TO RUEHC/SECSTATE WASHDC PRIORITY 3264
INFO RUEHZM/GULF COOPERATION COUNCIL COLLECTIVE PRIORITY
RUCNDT/USMISSION USUN NEW YORK PRIORITY 3237
RUEATRS/DEPT OF TREASURY WASHDC PRIORITY

C O N F I D E N T I A L KUWAIT 000431

SIPDIS

STATE FOR NEA/ARP, EB/ESC/TFS; TREASURY FOR KRISTEN HECHT,
DANNY HARRIS

E.O. 12958: DECL: 04/30/2019
TAGS: [ECON](#) [KU](#) [PGOV](#) [PREL](#) [PTER](#) [KTFN](#)
SUBJECT: TERROR FINANCE: KUWAIT'S APPELLATE COURT SUSPENDS
CHARGES AGAINST TERRORIST FACILITATOR MUBARAK AL-BATHALI

REF: A. KUWAIT 95
[1](#)B. 2008 KUWAIT 585
[1](#)C. 2008 KUWAIT 720
[1](#)D. 2008 KUWAIT 771
[1](#)E. 2009 KUWAIT 73
[1](#)F. 2009 KUWAIT 71

Classified By: DCM Alan Misenheimer for reasons 1.4 (b) and (d)

[1](#)1. (U) On April 28, Kuwait's Court of Appeals upheld the guilty verdict, but reduced the sentence handed down by a Kuwaiti criminal court in the case of UNSCR 1267 Designee and terrorist facilitator Mubarak Al-Bathali. The criminal court had found Bathali guilty of "inciting youth to jihad (combat) activities against foreign forces in Iraq" and sentenced him to three years in prison. The criminal court offered a temporary suspension of the sentence with payment of a 500kd (USD 1,710) fine. The appellate court fined Al-Bathali 3000kd (USD 10,290) but eliminated the prison sentence. (Note: Because Bathali appealed his case to the higher court and the Office of the Public Prosecutor did not file an appeal, according to Kuwait's penal codes the court has the option to reduce, but cannot increase the sentence. End note).

[1](#)2. (SBU) According to a legal contact of the Embassy's, this is a final judgment. Because Bathali appealed the original judgment, the GoK would normally be unable to appeal the judgment to Kuwait's Court of Cassation (Supreme Court). The judiciary could take the extraordinary decision to take action, but only if the Public Prosecutor personally requests it and explains the reasons behind it. Because the Public Prosecutor did not file an appeal with the higher court, this leads the lawyer to believe that the Prosecutor will not make an appeal to the Court of Cassation.

[1](#)3. (C) Comment: Legal interlocutors previously predicted to emboffs that this would be a difficult case for the GoK to win given the lack of any clear legal definition of terrorism. The bottom line is that the GoK's legal ability to prosecute these types of cases is sharply limited. We can continue to work with the GoK to strengthen their ability to investigate and prosecute; however, absent a stronger legal framework the net impact is likely to be less than we would like. This disappointing outcome does not add to our confidence the GoK will be able to properly maintain and mitigate recidivism on the part of its four remaining GTMO detainees should the US return them, the Foreign Minister's April 25 assurances to Secretary Clinton notwithstanding. End Comment.

For more reporting from Embassy Kuwait, visit:
visit Kuwait's Classified Website at:

http://www.intelink.sgov.gov/wiki/Portal:Kuwa_it

JONES